

Council Minutes – August 4, 2009

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, August 4, 2009. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Archer, Preisner and Harmon -8. Mayor Bunten presided -1. Absent: Councilmember Swank -1.

AFTER THE MEETING was called to order, Pastor Cecil Washington, New Beginnings Baptist Church gave the invocation.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

A PRESENTATION on the Topeka Police Department Quarterly Report was presented by Ronald Miller, Police Chief.

Councilmember Alcalá requested that item 4a, a lawsuit settlement proposal for the case of Lindemuth v. City of Topeka be removed from the consent agenda for separate discussion

Upon hearing no objections, Mayor Bunten announced that item 4a would be removed from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

RESOLUTION NO. 8181 introduced by City Manager Norton N. Bonaparte, Jr., granting various neighborhood groups an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

RESOLUTION NO. 8182 introduced by Councilmember Karen Hiller granting The Office an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions was presented.

MINUTES of the regular meeting of July 28, 2009 was presented.

Councilmember Preisner moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

A SETTLEMENT PROPOSAL in the amount of \$24,000 from the Legal Department requesting authority from the City Council to settle the case of Lindemuth v. City of Topeka, Case No. 08-C-589 under the terms and conditions negotiated and agreed upon by the parties under mediation was presented.

Mayor Bunten spoke in opposition of approving the settlement based on the assumption that the City would lose if the claimant sought litigation. He noted that Mr. Lindemuth owes over \$400,000 in delinquent property taxes.

Councilmember Preisner asked if in the past, tenants of the property have filed a similar claim; if the City has determined where the grease is coming from; and if the City has sufficient evidence or proof to support potential litigation.

Councilmember Harmon asked if a trial date has been set or a motion filed for the case.

Jackie Williams, City Attorney reported that he does not recall that a claim has been filed for the property in question; and a court date has not been set; and no motions have been filed at this time. He also stated that in his opinion, the details of the claim should not be discussed in a public forum because it could jeopardize the City's case against the claimant.

Councilmember Harmon noted that if the claim is denied the issue could be revisited at a later date.

Councilmember Alcalá stated that he was not satisfied with the explanation provided by staff at the work session. He noted that there is no consistency when approving or denying claims. He stated that he would not support approval of the claim based on the facts presented.

Councilmember Alcala moved to approve the settlement for the case of Lindemuth v. City of Topeka, Case No. 08-C-589 in the amount of \$24,000. The motion seconded by Councilmember Harmon failed. Councilmember Preisner abstained. (0-7-1)

Norton N. Bonaparte, Jr., City Manager requested to withdraw item 5a, a public hearing and an ordinance relating to vacation request V08S/4 vacating a portion of city street right-of-way intersecting the railroad right-of-way located on NW Howard Street and NW 7th Street from the Council agenda. He reported that the 20 day publication notice requirement for the public hearing was not met.

Councilmember Alcala stated that he has received complaints from constituents relating to the vacation request and requested that he be notified prior to the vacation being placed back on the Council agenda.

Upon hearing no objections, Mayor Buntin announced that item 5a would be withdrawn from the Council agenda.

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of obtaining public input on the 2010 City of Topeka Consolidated Action Plan.

Norton N. Bonaparte, Jr., City Manager gave the staff report and stated that the total funding under the 2010 Consolidated Action Plan is \$6,277,729.

Councilmember Preisner moved to close the public hearing. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING for the purpose of hearing and answering questions or objections of taxpayers relating to the proposed use of all funds and the amount of tax to be levied for the City of Topeka 2010 Operating Budget.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Melissa Hungerford, United Way stated that it is very important to fund social services due to the state of the economy. She asked the City for continued funding.

Mary Kerr, East Topeka Senior Center asked the Council to reconsider funding the senior center. She gave a brief overview of the important services the Center provides to clients at no charge and reported that 93% of their client base lives within city limits. She stated that the City's portion of the Center's operating budget is vital in the Center receiving federal funding.

Steve Kramer asked the Council to help the Topeka Metropolitan Transit Authority (TMTA) to maintain the current level of evening and weekend services by providing the necessary funding. He also asked the Council to make sure that TMTA uses the money for the purpose of maintaining the same service level.

Kevin Siek, Kansas ADAPT asked the Council to provide the necessary funding to TMTA to maintain the existing service level. He also asked the Council to organize a community-wide group that could review and identify sources of long-term funding; creating a system that meets the needs of the community as a whole.

Councilmember Preisner moved to close the public hearing. The motion seconded by Councilmember Archer carried unanimously. (8-0-0)

ORDINANCE NO. 19289 introduced by Councilmember Karen Hiller authorizing the sale, consumption and possession of alcoholic liquor at the Beat the Heat Concert to be held in the One Hundred Block of SW Eighth Avenue on August 15, 2009 placed on first reading July 28, 2009 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Alcalá, Ortiz, Woelfel, Wolgast, Archer, Preisner and Harmon -8. Absent: Swank -1.

RESOLUTION NO. 8183 introduced by Deputy Mayor Richard Harmon amending the project budget and authorizing as amended Improvement Project No. 30273-00 which provides for the design and construction of a new exhibit as more specifically described herein, and rescinding City of Topeka Resolution No. 8114 was presented.

Councilmember Harmon gave the staff report and stated that the project was approved by the Council in September of 2008 and it was determined that additional funds were needed in the amount of \$100,000 to finish the project. He reported that because the additional funding has been raised privately through the Friends of Topeka Zoo organization the City does not have to provide any additional project funding.

Councilmember Harmon moved to approve the resolution. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

ORDINANCE NO. 19290 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of July 13, 2009 through July 19, 2009, and enumerating said expenditures therein was presented for first and final reading.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Wolgast moved to adopt the ordinance. The motion seconded by Councilmember Preisner carried. Councilmember Alcalá voted “no.” (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Ortiz, Woelfel, Wolgast, Archer, Preisner and Harmon -7. Noes: Alcalá -1. Absent: Swank -1.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the

Code of the City of Topeka, by providing for certain changes in zoning on a portion of the property located at 1009 SW Fillmore Street from “O&I-2” Office and Institutional District TO “M-1” Two-Family Dwelling District was presented for first reading. (Z09/5)

AN ORDINANCE introduced by Councilmember Jeff Preisner establishing the Softball/Sports Facilities Reserve Fund in City of Topeka Code Section 2-322, amending the procedures established by Ordinance No. 16269 and repealing said ordinance was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-831000.00 (HTE 830070), which provides for the design of corrective measures for four levee units, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project T-701002.00 (HTE 702090), which provides for traffic signal replacement at S.W. 17th Street and S.W. MacVicar Avenue, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;

Norton N. Bonaparte, Jr., City Manager reported that the 2009 June sales tax collection was \$2,381,268 which is \$141,851 more than expected for the month based on the revised annual estimate of \$27.5 million. He also reported that the total sales tax collection of \$13,587,491 is approximately \$100,000 less for the year based on the revised estimate; for the month of June sales tax is slightly better than it was last year; and total sales tax is running behind \$770,000 year-to-

date. He encouraged citizens to view the newest City of Topeka Presents Program, “Discovering Topeka” highlighting each Council District.

Councilmember Hiller thanked citizens for providing input on the 2010 operating budget for the City. She stated that the comments have been helpful and informative.

Councilmember Alcala commented on the small number of social service agencies that appeared to speak at the public hearing on the 2010 operating budget. He encouraged agency representatives to contact the Council office if they have additional comments on the budget process.

Councilmember Preisner thanked the Dillon’s Grocery Store Corporation for partnering with the Helping Hands Humane Society (HHHS). He stated that the Corporation sold the building located at SW 21st and Belle Avenue to HHHS for a very reasonable price; providing a larger facility in a great location. He noted that the new facility would be named the Helping Hands Humane Society at Dillon’s Crossing.

Councilmembers Ortiz and Harmon commended Councilmember Alcala for his years of service on the City Council.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:00 p.m.

Brenda Younger
City Clerk